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Attorneys for Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROMULO SERRANO, on behalf of himself
and others similarly situated,

Plaintiffs

-against-

CONCOURSE SUDS, LLC d/b/a Candlewood
Auto Mall

Defendant.

08 CV 02782 (TPG)
ECF Case

ANSWER

Defendant Concourse Suds, LLC (referred to herein as “Concourse” or “Defendant”), as and for its answer to the Complaint, dated March 17, 2008 (the “Complaint”) of plaintiff Romulo Serrano (referred to herein as “Serrano” or “Plaintiff”), alleges as follows:

INTRODUCTION

1. Denies the allegations contained in paragraph “1” of the Complaint.
2. Denies the allegations contained in paragraph “2” of the Complaint.

JURISDICTION AND VENUE

3. Denies the allegations contained in paragraph “3” of the Complaint.
4. Denies the allegations contained in paragraph “4” of the Complaint.

PARTIES

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “5” of the Complaint.

6. Admits the allegations contained in paragraph "6" of the Complaint.
7. Denies the allegations contained in paragraph "7" of the Complaint except admits Plaintiff was employed by Defendant until January 2008.
8. No response is required to the allegations contained in paragraph "8" of the Complaint, as the allegations set forth a purported statement of law. To the extent a response is required, Defendant denies the allegations.
9. Denies the allegations contained in paragraph "9" of the Complaint.
10. Denies the allegations contained in paragraph "10" of the Complaint.
11. Denies the allegations contained in paragraph "11" of the Complaint.
12. Denies the allegations contained in paragraph "12" of the Complaint.
13. Denies the allegations contained in paragraph "13" of the Complaint.

STATEMENT OF FACTS

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "14" of the Complaint.
15. Denies the allegations contained in paragraph "15" of the Complaint.
16. Denies the allegations contained in paragraph "16" of the Complaint.
17. Denies the allegations contained in paragraph "17" of the Complaint.
18. Denies the allegations contained in paragraph "18" of the Complaint.
19. Denies the allegations contained in paragraph "19" of the Complaint.
20. Denies the allegations contained in paragraph "20" of the Complaint.
21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "21" of the Complaint.

STATEMENT OF CLAIM

COUNT I

VIOLATION OF THE FAIR LABOR STANDARDS ACT

22. Concourse repeats and realleges its answers to the paragraphs of the Complaint referenced in paragraph "22" of the Complaint.

23. No response is required to the allegations contained in paragraph "23" of the Complaint, as the allegations set forth a purported statement of law. To the extent a response is required, Defendant denies the allegations.

24. No response is required to the allegations contained in paragraph "24" of the Complaint, as the allegations set forth a purported statement of law. To the extent a response is required, Defendant denies the allegations.

25. Denies the allegations contained in paragraph "25" of the Complaint.

26. Denies the allegations contained in paragraph "26" of the Complaint.

27. Denies the allegations contained in paragraph "27" of the Complaint.

28. Denies the allegations contained in paragraph "28" of the Complaint.

29. Denies the allegations contained in paragraph "29" of the Complaint.

30. Denies the allegations contained in paragraph "30" of the Complaint.

31. Denies the allegations contained in paragraph "31" of the Complaint.

32. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "32" of the Complaint.

33. Denies the allegations contained in paragraph "33" of the Complaint.

34. Denies the allegations contained in paragraph "34" of the Complaint.

35. Denies the allegations contained in paragraph "35" of the Complaint.

36. Denies the allegations contained in paragraph "36" of the Complaint.
37. Denies the allegations contained in paragraph "37" of the Complaint.
38. Denies the allegations contained in paragraph "38" of the Complaint.

COUNT II

VIOLATION OF THE NEW YORK LABOR LAW

39. Concourse repeats and realleges its answers to the paragraphs of the Complaint referenced in paragraph "39" of the Complaint.
40. No response is required to the allegations contained in paragraph "40" of the Complaint, as the allegations set forth a purported statement of law. To the extent a response is required, Defendant denies the allegations.

41. Denies the allegations contained in paragraph "41" of the Complaint.
42. Denies the allegations contained in paragraph "42" of the Complaint.
43. Denies the allegations contained in paragraph "43" of the Complaint.
44. Denies the allegations contained in paragraph "44" of the Complaint.

AS AND FOR A FIRST DEFENSE

45. Plaintiff has failed to state a claim upon which relief can be granted.

AS AND FOR A SECOND DEFENSE

46. The damages suffered by Plaintiff, if any, were the result of his own conduct.

AS AND FOR A THIRD DEFENSE

47. Plaintiff's claims are barred by the doctrine of unclean hands.

AS AND FOR A FOURTH DEFENSE

48. Plaintiff's claims are barred by the doctrine of waiver and/or estoppel.

AS AND FOR A FIFTH DEFENSE

49. Plaintiff is not a proper class representative.

AS AND FOR A SIXTH DEFENSE

50. Plaintiff is not a member of a proper class.

AS AND FOR A SEVENTH DEFENSE

50. Plaintiff was a manager and/or supervisor during the relevant times referenced in the Complaint.

AS AND FOR AN EIGHTH DEFENSE

51. Plaintiff's claims are barred, in whole or in part, by the applicable Statutes of Limitations.

AS AND FOR A NINTH DEFENSE

52. If Plaintiff suffered any damages, which Defendant denies, they were not caused by Defendant, but rather by the actions of others.

AS AND FOR A TENTH DEFENSE

53. If Plaintiff suffered any damages, which Defendant denies, Plaintiff failed to mitigate them.

WHEREFORE, defendant, Concourse Suds, LLC respectfully requests judgment as follows:

A. Dismissing Plaintiff's Complaint in its entirety; and

B. Granting such other and further relief as this Court deems just and proper.

Dated: New York, New York
June 19, 2008

BARTON BARTON & PLOTKIN LLP

By: /s/ Mathew E. Hoffman

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